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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
JULIE JACOBY

07 Civ 4627 (LAK)(RLE)

Plaintiff,

NOTICE OF MOTION

-against-

HARTFORD LIFE AND ACCIDENT INSURANCE  
COMPANY,

Defendant.  
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PLEASE TAKE NOTICE that, upon the annexed affirmation of Scott M. Riemer, dated February 5, 2008, together with exhibits thereto, and upon all prior proceedings herein, plaintiff will move this Court before the Honorable Lewis A. Kaplan, at the United States Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 12D, on the \_\_\_<sup>th</sup> of \_\_\_\_\_, 2008, at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order:

- (a) declaring unconstitutional the arbitrary and capricious standard of review in employee benefit cases involving fully insured ERISA plans; and
- (b) granting plaintiff a *de novo* plenary proceeding in the current action;

and for such other relief as the Court deems just and proper.

Dated: New York, New York  
February 5, 2008

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By:                     /s/                      
Scott M. Riemer (SR5005)

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